

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 921 of 2019**

1. Shri Dinesh Kumar Dubey S/o Tikaram Aged About 48 Years
2. Smt. Sheela Devi Dubey W/o Dinesh Kumar Aged About 47 Years

Both are R/o Chantidih Thana Sarkanda, District Bilaspur Chhattisgarh.

---Appellants

Versus

1. Dhan Say S/o Rameshwar Prasad Aged About 30 Years R/o Krishna Nagar, Gali No. 6, Ward No. 18, Near Shiv Mandir Thana Gidhiyari, District Raipur Chhattisgarh.
2. Shri Ram General Insurance Comapany Limited Branch Manager Branch Office 4th Floor, Maruti, Heights G.E. Road, Raipur, District Raipur Chhattisgarh.

---- Respondents

For Appellants	Shri A.L. Singroul, Advocate.
For Respondents	None.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board**

15/05/2019

1. Heard on **I.A. No.1**
2. This is an application for condonation of delay of 71 days in filing the MAC.
3. For the reasons mentioned in the application which is duly supported by affidavit, the same is allowed and delay in filing the MAC is condoned.
4. Also, heard on admission.
5. This appeal is by the claimants against the award dated 19.11.2018 passed by the 8th Motor Accident Claims Tribunal,

Bilaspur, C.G. in Claim Case No.237/17 awarding total compensation of Rs.8,79,624/- with interest @ 6% per annum from the date of application till realization, fastening liability on the Insurance Company.

6. As per claim petition, on 26.02.2017 deceased Sunil Kumar Dubey, 30 years, earning Rs.15,000/- per month as Field Officer in Micro Finance Company, died in the motor vehicular accident caused due to rash and negligent driving of Truck bearing no. CG04-G-9241 by non-applicant No.1/respondent no.1 (Driver and Owner of the Vehicle), At the time of accident, offending vehicle was insured with non-applicant no.2/respondent no.2.
7. On claim petition being filed by the claimants i.e. parents of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.40,10,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 5 of this judgment.
8. Learned counsel for the appellants/claimants submits that though he has raised various grounds in the memo of appeal, however, he is not pressing all those grounds and is assailing the award on the following grounds:
 - (i) that income of the deceased has wrongly been considered by the Tribunal as Rs.6,210/- per month whereas it should have been Rs.15,000/- per month, looking to the job of the deceased.
 - (ii) that no amount towards loss of filial and other consortium has been granted.

In support of above contention, reliance has been placed on the decision of the Hon'ble Supreme Court in the matter of ***Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram and others in Civil Appeal No.9581/2018 arising out of SLP (Civil) No.3192/2018.***

9. Heard learned counsel for the appellants and perused the impugned award.

10. As regards income of the deceased, the Tribunal has rightly assessed the income of the deceased as Rs.6,210 per month as an Unskilled Labour on the basis of evidence available on record. The Tribunal further considering the age of the deceased as 31 years on the basis of documents available on record, the dependency, the nature of his job, keeping the view the decision of the Hon'ble Supreme Court in ***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Co. Ltd. vs. Pranay Sethi, (2017) 16 SCC 680*** and *Magma General Insurance Co. Ltd.* (supra), applied multiplier of 16, deducted 1/2 towards personal and living expenses of the deceased and also awarded 40% towards future prospects. The Tribunal further awarded Rs. 15,000/- funeral expenses, Rs.15,000/- towards loss of estate, Rs.5,000/- towards loss of filial consortium and Rs.10,000/- towards mental agony and pain. Considering the facts and circumstances of the case, the nature and quality of evidence adduced by the claimants as reflected from the impugned judgment and not disputed by the appellants/claimants' counsel, the said assessment appears to be just and proper, warranting no interference by this Court.

11. Resultantly, the appeal being without any substance is liable to be dismissed at the admission stage itself and is, accordingly, dismissed.

Sd/-
Gautam Chourdiya
Judge

Akhilesh